

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
GEORGE B. YOUNG.

EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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judge entering lands under the provisions of this chapter, shall, when the trust has not been fully executed, succeed to said trust, and have authority to execute the same as fully as his predecessor might have done while in office.

*§ 17. **Powers of judge of first district.** That Hon. Francis M. Crosby, judge of the first judicial district of the state of Minnesota, be, and he hereby is authorized and fully empowered to execute and discharge within said judicial district all duties and trusts in like manner and subject to the same requirements as are required by the act entitled "An act prescribing rules and regulations for the execution of the trust arising under the act of congress entitled 'An act for the relief of citizens of towns upon lands of the United States under certain circumstances,'" approved March third, one thousand eight hundred and fifty-five, and the several acts amendatory thereof. (1874, c. 82, § 1.)

*§ 18. **Same—conveyances legalized.** That all deeds of lands heretofore made and executed by the said Francis M. Crosby, judge as aforesaid, under the trust by said several acts created, be and they hereby are declared to be as legal and valid conveyances of the lands therein described as if executed by the original trustee; and the record of any such deeds are hereby declared to be legal and competent evidence from the time of the record thereof, in like manner as the record of other deeds are or may be by law made evidence. (*Id.* § 2.)

CHAPTER XLIII.

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§ 1. **Uses and trusts abolished, except, etc.** Uses and trusts, except as authorized and modified in this chapter, are abolished; and every estate and interest in lands shall be deemed a legal right, cognizable as such in the courts of law, except when otherwise provided by statute.

§ 2. **Executed uses confirmed.** Every estate which is now held as a use executed under laws, as they formerly existed, is confirmed as a legal estate.

§ 3. **Who deemed to have legal estate in lands.** Every person who, by virtue of any grant, assignment or devise, is entitled to the actual possession of lands, and the receipt of the rents and profits thereof, in law or equity, shall be deemed to have a legal estate therein, of the same quality and duration, and subject to the same conditions, as his beneficial interest.

§ 4. **Limitation of preceding section.** The preceding section shall not divest the estate of any trustees in any existing trust, where the title of such trustees is not mere-

ly nominal, but is connected with some power of actual disposition, or management, in relation to the lands which are the subject of the trust.

§ 5. **Trustees take no interest, except, etc.** Every disposition of lands, whether by deed or devise, except as otherwise provided in this chapter, shall be made directly to the person in whom the right to the possession and profits is intended to be vested, and not to any other to the use of or in trust for such person; and if made to one or more persons in trust for or to the use of another, no estate or interest, legal or equitable, shall vest in the trustee.

6 M. 241 (358); 8 M. 272 (309).

§ 6. **Limitation of preceding sections.** The preceding sections of this chapter shall not extend to trusts arising or resulting by implication of law; nor be construed to prevent or affect the creation of such express trusts as are hereinafter authorized and defined.

§ 7. **Grant to one for money paid by another.** When a grant for a valuable consideration is made to one person, and the consideration therefor is paid by another, no use or trust shall result in favor of the person by whom such payment is made; but the title shall vest in the person named as the alienee in such conveyance, subject only to the provisions of the next section.

2 M. 238 (277); 5 M. 342 (422); 7 M. 216 (286); 8 M. 272 (309); 8 M. 310 (354); 10 M. 320 (401); 13 M. 462; 14 M. 424; 16 M. 512; 22 M. 132, 384.

§ 8. **Such conveyance fraudulent—trust for creditors.** Every such conveyance shall be presumed fraudulent as against the creditors, at that time, of the person paying the consideration; and when a fraudulent intent is not disproved, a trust shall result in favor of such creditors, to the extent that may be necessary to satisfy their just demands.

2 M. 238 (277); 8 M. 165 (195); 9 M. 169 (183); 9 M. 287 (303); 12 M. 145; 14 M. 424; 22 M. 132, 384.

§ 9. **Limitation of section seven.** The preceding seventh section shall not extend to cases where the alienee named in the conveyance has taken the same as an absolute conveyance, in his own name, without the knowledge, or consent, of the person paying the consideration; or when, such alienee, in violation of some trust, has purchased the lands so conveyed, with moneys belonging to another person.

§ 10. **Bona fide purchasers protected.** No implied or resulting trust shall be alleged or established, to defeat or prejudice the title of a purchaser for a valuable consideration, and without notice of such trust.

§ 11. **Purposes for which express trusts may be created.** Express trusts may be created for any, or either, of the following purposes:

First. To sell lands for the benefit of creditors.

2 M. 226 (264.)

Second. To sell, mortgage or lease lands for the benefit of legatees, or for the purpose of satisfying any charge thereon.

Third. To receive the rents and profits of lands, and apply them to the use of any person, during the life of such person, or for any shorter term, subject to the rules prescribed in chapter forty-five.

Fourth. To receive the rents and profits of lands, and to accumulate the same, for either of the purposes, and within the limits, prescribed in chapter forty-five.

Fifth. To receive and take charge of any money, stocks, bonds, or valuable chattels of any kind, and to invest and loan the same for the benefit of the beneficiaries of such express trust; and the district courts of the state shall, on petition and hearing, have power to appoint a trustee for the purpose herein set forth, requiring such trustee to give such bond for the faithful execution of such express trust as to the court may seem right and proper; and express trusts, created under the provisions of this clause, shall be administered under the direction of the court. (As amended 1875, c. 53, § 1.)

2 M. 238 (277.)

§ 12. **Devise of lands creates a mere power, when.** A devise of lands to executors or other trustees, to be sold or mortgaged, when such trustees are not also em-

powered to receive the rents and profits, shall vest no estate in the trustees; but the trust shall be valid as a power, and the lands shall descend to their heirs, or pass to the devisees of the testator, subject to the execution of the power.

§ 13. **Profits of lands held in trust, liable to creditors, when.** When a trust is created to receive the rents and profits of lands, and no valid direction for accumulation is given, the surplus of such rents and profits, beyond the sum that is necessary for the education and support of the person for whose benefit the trust is created, shall be liable in equity to the claims of the creditors of such person, in the same manner as other personal property which cannot be reached by an execution at law.

§ 14. **Express trust to be power in trust, when.** When an express trust is created for any purpose not enumerated in the preceding sections of this chapter, no estate shall vest in the trustee; but the trust, if directing or authorizing the performance of any act which may be lawfully performed under a power, shall be valid as a power in trust, subject to the provisions in relation to such powers contained in the next succeeding chapter.

§ 15. **Title to such land shall descend, how.** In every case where the trust is valid as a power, the land to which the trust relates shall remain in, or descend to, the persons otherwise entitled, subject to the execution of the trust as a power.

§ 16. **Trustees of express trust to possess whole estate.** Every express trust, valid as such in its creation, except as herein otherwise provided, shall vest the whole estate in the trustees, in law and in equity, subject only to the execution of the trust; and the person for whose benefit the trust was created shall take no estate or interest in the lands, but may enforce the performance of the trust in equity.

§ 17. **Limitation of preceding section.** The preceding section shall not prevent any person creating a trust from declaring to whom the lands to which the trust relates, shall belong, in the event of the failure or termination of the trust; nor shall it prevent him from granting or devising such lands, subject to the execution of the trust; and every such grantee shall have a legal estate in the lands as against all persons, except the trustees and those lawfully claiming under them.

§ 18. **Interest not disposed of.** When an express trust is created, every estate and interest not embraced in the trust, and not otherwise disposed of, shall remain in or revert to the person creating the trust, or his heirs, as a legal estate.

§ 19. **Trust interests, when assignable.** No person beneficially interested in a trust for the receipt of rents and profits of the lands can assign, or in any manner dispose of, such interest; but the rights and interest of every person for whose benefit a trust for the payment of a sum in gross is created are assignable.

§ 20. **Effect of omitting trust in conveyance.** When an express trust is created, but is not contained or declared in the conveyance to the trustees, such conveyance shall be deemed absolute as against the subsequent creditors of the trustees not having notice of the trust, and as against purchasers from such trustees, without notice, and for a valuable consideration.

§ 21. **Sales by trustees void, when.** When the trust is expressed in the instrument creating the estate, every sale, conveyance, or other act of the trustees, in contravention of the trust, shall be absolutely void.

§ 22. **Misconduct of trustees not to affect other persons.** No person who actually and in good faith makes any payment to a trustee, which the trustee as such is authorized to receive, shall be responsible for the proper application thereof, according to the trust; nor shall any right or title derived by such person from the trustee, in consideration of such payment, be impeached or called in question in consequence of any misapplication of such payment by the trustee.

§ 23. **When estate of trustee ceases.** When the purposes for which an express trust is created cease, the estate of the trustee shall also cease.

§ 24. **Death of trustee—trust how executed.** Upon the death of the surviving trustee of

an express trust, the trust estate shall not descend to his heirs, nor pass to his personal representatives; but the trust, if then unexecuted, shall vest in the district court, with all the powers and duties of the original trustees, and shall be executed by some person appointed for that purpose, under the direction of the court.

§ 25. **Resignation of trustee.** Upon the petition of any trustee of an express trust, the district court may accept his resignation, and discharge him from the trust, under such regulations as shall be established by the court for that purpose, and upon such terms as the rights and interests of the person interested in the execution of the trust require.

§ 26. **Removal of trustee.** Upon the complaint of any person interested in the execution of an express trust, and under such regulations as shall be established by the court for that purpose, the district court may remove any trustee who has violated or threatened to violate his trust, or who is insolvent, or whose insolvency is apprehended, or who, for any other cause, is deemed an unsuitable person to execute the trust.

4 M. 1 (13).

§ 27. **Powers of district court.** The district court has full powers to appoint a new trustee in the place of a trustee resigned or removed; and when, in consequence of such resignation or removal, there is no acting trustee, the court, in its discretion, may appoint new trustees, or cause the trust to be executed by one of its officers under its direction.

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